

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

MARY DUKES,

Plaintiff,

v.

Case No. 8:18-cv-2176-T-60JSS

AIR CANADA,

Defendant.

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ORDER ADOPTING REPORT AND RECOMMENDATION

This matter is before the Court on the Report and Recommendation of United States Magistrate Judge Julie S. Sneed. (Doc. # 48). By the thorough and well-reasoned report and recommendation, Judge Sneed recommends that the Joint Motion for Final Approval of Class Action Settlement (Doc. # 43) be granted and the Settlement Agreement (Doc. # 43-2) be approved. Judge Sneed further recommends that “Plaintiff’s Unopposed Motion for Award of Class Representative Service Award, and for Attorneys’ Fees and Costs” (Doc. # 43) be granted. On January 28, 2020, Plaintiff and Defendant filed their “Joint Notice of Non-Objection to Report and Recommendation.” (Doc. # 49).

Under the Federal Magistrates Act, Congress vested Article III judges with the power to “designate a magistrate judge to hear and determine any pretrial matter pending before the court,” subject to various exceptions. 28 U.S.C. § 636(b)(1)(A). The Act further vests magistrate judges with authority to submit proposed findings of fact and recommendations for disposition by an Article III judge. 28 U.S.C. § 636(b)(1)(B). After conducting a careful and complete review of the findings and recommendations, a

district judge may accept, reject, or modify the magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); *Williams v. Wainwright*, 681 F.2d 732 (11th Cir. 1982).

In the absence of specific objections, there is no requirement that a district judge review factual findings *de novo*, *Garvey v. Vaughn*, 993 F.2d 776, 779 n.9 (11th Cir. 1993). However, the district judge reviews legal conclusions *de novo*, even in the absence of an objection. *See Cooper-Houston v. S. Ry. Co.*, 37 F.3d 603, 604 (11th Cir. 1994); *Castro Bobadilla v. Reno*, 826 F. Supp. 1428, 1431-32 (S.D. Fla. 1993), *aff'd*, 28 F.3d 116 (11th Cir. 1994) (table). When no timely and specific objections are filed, case law indicates the district judge should review the magistrate judge's proposed findings and recommendations using a clearly erroneous standard. *See Gropp v. United Airlines, Inc.*, 817 F. Supp. 1558, 1562 (M.D. Fla. 1993).

After careful consideration of the record, including Judge Sneed's report and recommendation, the Court adopts the report and recommendation. The Court agrees with Judge Sneed's detailed and well-reasoned factual findings and legal conclusions, including that the purported class meets all of the Rule 23(a) prerequisites and satisfies Rule 23(b)(3); that the notice to the class was reasonable and the best notice practicable under the circumstances; and that the Settlement Agreement is fair, reasonable, and adequate. The Court also agrees with Judge Sneed that an award of 33.3% of the Settlement Fund for attorneys' fees and costs is reasonable under the circumstances of this case, and that an incentive award of \$5,000.00 to Ms. Dukes as the Representative Plaintiff is reasonable, consistent with the incentive awards approved in other class

actions in this district, and adequately recognizes her efforts to obtain recovery for the Settlement Class.

It is therefore

ORDERED, ADJUDGED, and DECREED:

1. Judge Sneed's Report and Recommendation (Doc. # 48) is **AFFIRMED** and **ADOPTED** and **INCORPORATED BY REFERENCE** into this Order for all purposes, including appellate review.
2. The "Joint Motion for Final Approval of Class Action Settlement" (Doc. # 42) is hereby **GRANTED**, and the Settlement Agreement (Doc. # 42-2) is **APPROVED**.
3. "Plaintiff's Unopposed Motion for Award of Class Representative Service Award, and for Attorneys' Fees and Costs" (Doc. # 43) is hereby **GRANTED**.
4. Class Counsel is awarded \$33,333.33 in reasonable attorneys' fees and costs, which is equal to 33% of the Settlement Fund.
5. Named Plaintiff, Mary Dukes, is awarded a service award of \$5,000.00.
6. On or before February 28, 2020, the parties shall submit a proposed stipulated form of final judgment or stipulation of dismissal.

DONE and **ORDERED** in Chambers, in Tampa, Florida, this 30th day of January, 2020.



TOM BARBER
UNITED STATES DISTRICT JUDGE